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November 19, 2004

Benjamin L Ginsberg (202) 457-6405 bginsberg@pattonboggs.com

## COURIER

Mr. Jeff S. Jordan, Esq. Supervisory Attorney Office of General Counsel Federal Election Commission 999 E Street, N.W. Washington, D.C. 20463

Re: Matter Under Review 5502 -- Martinez for Senate

Dear Mr. Jordan:

This will reply to the complaint filed in this matter against the above-named Respondents. The complaint is based on incorrect assertions and a Florida statute preempted by federal law, and should be dismissed by the Commission.

While the commercial at issue does contain references to and footage of the President, the commercial was not "produced by one of the media vendors providing media services to Bush-Cheney '04, Inc." Respondents were aware of the provisions of the Bipartisan Campaign Reform Act on common vendors, as well as the Commission's Advisory Opinion 2004-1 (Alice Forgey Kerr). As a result, the campaign erected a wall around the vendor in question (Stevens-Schrieffer) and retained a separate media vendor, Red October Productions, to handle any communications mentioning or showing the President. The invoices from Red October for the ad at issue are attached. Accordingly, the commercial complained of is not a coordinated public communication and does not violate the Act or Commission regulations.

Regarding the alleged violation of Florida law, the Commission has no authority to enforce Florida law and, even if it did, such a finding would run counter to the numerous Commission decisions noting the preemption of state law by Federal law in this area. 2 U.S.C. § 453(a).

Respectfully submitted,

Benjamin L. Ginsberg William J. McGinley Glenn M. Willard

3822722v1



	Date: 7/30/04
Bill To: Martinez for Senate	Invoice Number: 04-078
1516 Hillcrest Street	Additional send to stations
Suite 200	REVISED
Orlando, FL 32803	"Strong Conservative"

Description		Amount
Standard Distribution		
1 TV Spot Send to 3 Additional Stations in Pensacola market		198.38
"Strong Conservative - REVISED"		
Additional use for voiceover talent		115 00
	TOTAL	313 36



	Date: 7/30/04
Bill To: Martinez for Senate	Invoice Number: 04-075
1516 Hillcrest Street	Additional send to stations
Suite 200	REVISED
Orlando, FL 32803	"Strong Conservative"

Description		Amount
Standard Distribution:		
1 TV Spot Send to 5 Additional Stations		181.13
"Strong Conservative - REVISED"		
Additional use for voiceover talent		172.50
	TOTAL	353.63



Martinez for Senate	Date. 7/30/04 Client: Martinez for Senate		
	Job. One TV Spot "Strong Conser REVISED		
1516 Hillcrest Street Suite 200			ng Conservan
Orlando, FL 32803	JOB#: 04-075		
		<del></del>	
Description	Units	Rate (hr)	Extended
Off-Line			
Rough Cuts w/Editor (per hour)		225.00	
Conform			
On-Line Edit or Smoke		325.00	
Graphics		250.00	
Audio			
Mix at Audio House		550.00	
Dat for VO		30.00	
Recording Session for v/o		200.00	
ISDN Line		300.00	
Receiving ISDN		150.00	
Phone Patch		15.00	
Transfering e-files		150 00	
Voice Over Talent (w/P&W)		550.00	
Residuals for Voice Over	3.0	50.00	150.00
Music			
Music Use		250.00	
Special EFX		150.00	
Music search		100 00	
Original Music Score		1,500.00	
Misc			
Petty Cash		100.00	
Messengers		20.00	
Accounting		100.00	
Special Insurance		350.00	
S. Footage Research		100.00	
Stock Footage		1,200.00	
Delivery			
Masters		50.00	
Compression to Electronic Files		100.00	
Fed Ex/Shipping		30.00	
Production Fee (15%)			\$150.00 22.50
T TANGERON TEE (TO/0)	TOTAL		\$172.50
	IOIAL		41/2

## COMMENTS:

One spot

Residuals for voiceover use in Fort Myers market for "Strong Conservative - REVISED"



Date: 7/30/04

To: Martinez for Senate Client: Martinez for Senate

1516 Hillcrest Street Job: Additional send of "Strong Suite 200 Conservative - REVISED"

Orlando, FL 32803 Job#: 04-075

Description	Units	Rate	Extende
DIGITAL TRANSMISSION - RADIO		400.40	
STANDARD Overnight Radio Send (before 7pm EST)		\$20 00	
LATE NIGHT Radio Send (before 10pm EST)		\$45.00	•
FOUR HOUR Radio Send		\$50 00	
ONE HOUR Radio Send		\$75 00	
Link to DC Systems		\$40 00	
DIGITAL TRANSMISSION - TV			
STANDARD Overnight TV Send (before 7pm EST)	3	\$25 00	\$75.00
I ATE NIGHT TV Send (before 10pm EST)		\$62.50	
FOUR HOUR TV Send		\$90.00	
ADD'L BETA TAPE OR 1" required by station	3	\$32.50	\$97.50
Second Tied Spot, STANDARD OVERNIGHT		\$10 00	
Link to DC Systems		\$75.00	
DUPLICATION			
Audio Cassette		\$10 00	
Dat Cassette		\$20 00	
MP3 File		\$115.00	
VHS tape		\$14.00	
Beta dub		\$45 00	
Electronic File		\$175.00	
SHIPPING			
Fed Ex/Overnight Service		\$30.00	
Messenger		\$20.00	
	SUBT	OTAL	\$172 50
Production Fee (15%)			\$25.88
	TO	ΓAL	\$198.38

Spot already in New York, no Link to DG Systems Spot went via satellite from New York (no tax charged) Spot went to 3 additional stations, all of which are offline and require betaSP tapes



Date 7/30/04

350.00

100.00

50 00

100 00 30 00

TOTAL

\$100.00

\$115.00

15.00

1,200 00

Client Martinez for Senate To. Martinez for Senate 1516 Hillcrest Street Job. One TV Spot "Strong Conservative" Suite 200 REVISED Orlando, FL 32803 JOB#. 04-078 Description Units Rate (hr) Extended Off-Line Rough Cuts w/Editor (per hour) 225 00 Conform On-Line Edit or Smoke 325 00 Graphics 250 00 Audio Mix at Audio House 550.00 Dat for VO 30 00 Recording Session for v/o 200 00 ISDN Line 300 00 Receiving ISDN 150 00 Phone Patch 15.00 Transfering e-files 150 00 Voice Over Talent (w/P&W) 550 00 Residuals for Voice Over 100.00 2.0 **50 00** Music Music Use 250,00 Special EFX 150.00 Music search 100.00 Original Music Score 1,500 00 Misc Petty Cash 100.00 Messengers 20 00 Accounting 100 00

COMMENTS:

Fed Ex/Shipping

Production Fee (15%)

Special Insurance

Stock Footage

Delivery Masters

S Footage Research

Compression to Electronic Files

One spot

Residuals for voiceover use in Pensacola market for "Strong Conservative - REVISED"



Date: 7/30/04

To: Martinez for Senate

Client Martinez for Senate

1516 Hillcrest Street

Sunte 200

Orlando, FL 32803

Client Martinez for Senate

Job: Additional send

Conservative - R

Client	Martinez I	for Senate	
Job:	Additiona	l send of 'Stro	ng
	Conservat	ive - REVISED	)"
ĵob\$:	04-075		
Units		Rate	Extended

Description	Units	Rate	Extended
DIGITAL TRANSMISSION - RADIO			
STANDARD Overnight Radio Send (before 7pm EST)		\$20.00	
LATE NIGHT Radio Send (before 10pm EST)		\$45.00	
FOUR HOUR Radio Send		\$50.00	
ONE HOUR Radio Send		<b>\$7</b> 5.00	
Link to DG Systems		\$40.00	
DIGITAL TRANSMISSION - TV			
STANDARD Overnight TV Send (before 7pm EST)	5	\$25.00	\$125.00
LATE NIGHT TV Send (before 10pm EST)		\$62.50	
FOUR HOUR TV Send		\$90.00	
ADD'L BETA TAPE OR 1" required by station	1	\$32.50	\$32.50
Second Tied Spot, STANDARD OVERNIGHT		\$10.00	
Link to DG Systems		<b>\$</b> 75 00	
DUPLICATION			
Audio Cassette		\$10.00	
Dat Cassette		\$20.00	
MP3 File		\$115.00	
VHS tape		\$14.00	
Beta dub		\$45.00	
Electronic File		\$175.00	
SHIPPING			
Fed Ex/Overnight Service		\$30.00	
Messenger		\$20.00	
	SUBT	OTAL	\$157.50
Production Fee (15%)			\$23.63
	TO	ΓAL	\$181.13

Spot already in New York, no Link to DG Systems
Spot went via satellite from New York (no tax charged)
Spot went to 5 additional stations, one of which was offline.



Date 8/4/2004 Chent Martine2 for Senate To Martinez for Senate 1516 Hillerest Street Job One I'V Spot "Strong Conservative" REVISED Suite 200 JOB#, 04-080 Orlando, I-L 32803 Description Units Rate (hr) Extended Off-Line Rough Cuts w/Fditor (per hour) 225 00 Conform On-Lanc Edit or Smoke 325.00 Graphics 250 00 Audio Mix at Audio House 550 00 Dat for VO 30 00 Recording Session for v/o 200,00 ISDN Line 300 00 Receiving ISDN 150 00 Phone Patch 15 00 Transfering e-files 150 00 Voice Over Talent (w/P&W) 550 00 Residuals for Voice Over 80 50 00 400 00 Music Music Use 250,00 Special LFX 150 00 Music search 100 00 Original Music Score 1,500,00 Misc Potty Cash 100 00 Messengers 20 00 Accounting 100 00 Special Insurance 350 00 5 I vootage Research 100.00 Stock Foulage 1,200 00 Delivery Masters 50 00 Compression to Electronic Itiles 100 00 Fed Ex/Shipping 30,00 \$400,00 Production Fee (15%) 60,00 TOTAL \$460.00

COMMENTS:

One spot

Residuals for voiceover use for "Strong Conservative - REVISED"



Bill To Martinez for Senate

1516 Hillcrest Street Suite 200 Orlando, FL 32803 Date 8/4/04
Invoice Number 04-080
Additional send to stations
REVISED
"Strong Conservative"

Description	Amount
Standard Distribution 1 TV Spot Send to 22 Additional Stations "Strong Conservative - REVISED" Additional use for voiceover talent	• 1,043 63 • 460 00
<del></del>	TOTAL 1,503 63



Bill To. Martinez for Schate Invoice Number: 04-081

1516 Hillcrest Street Additional send to stations
Suite 200 REVISED
Orlando, FL 32803 "Strong Conservative"

Description		Amount
Standard Distribution		
1 TV Spot Send to 1 Additional Station		66 13
"Strong Conservative - REVISED"		
Additional use for voiceover talent		57 50
	TOTAL	123 63



Description	Units	Rate	Extende
DIGITAL TRANSMISSION - RADIO			
STANDARD Overnight Radio Send (before 7pm FST)		520 00	
1 ATE NIGHT Radio Send (before 10pm EST)		545.00	
FOUR HOUR Radio Send		550.00	
ONE HOUR Radio Send		575.00	
Link to DG Systems		\$40.00	
DIGITAL TRANSMISSION - TV			
STANDARD Overrught TV Send (before 7pm EST)	1	\$25 00	S25 00
I ATE NIGHT TV Send (before 10pm EST)		\$62.50	
FOUR HOUR TV Send		\$90 CO	
ADD'L BETA TAPE OR 1" required by station	1	\$32 50	S32 50
Second Tied Spot, STANDARD OVERNIGHT		\$10 00	
Link to DG Systems		\$75.00	
DUPLICATION			
Audio Cassette		\$10 00	
Dat Cassette		\$20 00	
MP3 File		\$115 00	
VHS tape		\$14 00	
Beta dub		\$45 00	
Electronic File		\$175 00	
SHIPPING			
Fed Ex/Overrught Service		\$30 (0)	
Mossenger		\$20 00	
	SUBT	OTAL	\$57.50
Production Fee (15%)			\$8 53
	TO	ΓAL	\$66.13

Spot already in New York, no Link to DG Systems

Spot went via satellite from New York (no tax charged)

Spot went to 1 additional station, 1 of which was offline and required betaSP tape



	Date 8	/11/04		
Martinez for Senate	-	ent Martinez for Senate		
1516 Hillcrest Street	Job <u>C</u>	Job One TV Spot "Strong Conserva		
Suite 200	_ <u>R</u>	REVISED		
Orlando, FL 32803		JOB# 04-081		
Description	Units	Rate (hr)	Extended	
Off-Line				
Rough Cuts w/Editor (per hour)		225 00		
Conform				
On-Line Edit or Smake		325,00		
Graphies		250.00		
Audio				
Mix at Audio House		550 00		
Dat for VO		30 00		
Recording Session for v/o		200 00		
ISDN Line		300 00		
Receiving ISDN		150 00		
Phone Patch		15 00		
Transfering e-files		150 00		
Voice Over Talent (w/P&W)		550.00		
Residuals for Voice Over	10	50 00	50 00	
Music				
Music Use		250 00		
Special EFX		150 00		
Music search		100 00		
Original Music Score		1,500 00		
Misc				
Petty Cash		100 00		
Messengers		20 00		
Accounting		100 00		
Special Insurance		350.00		
S Footage Research		100 00		
Stock Footage		1,200 00		
Delivery				
Masters		50 00		
Compression to Electronic Files		100 00		
Fed Ex/Shipping		30 00	<del></del>	
Production Fee (15%)			\$30.00 7 50	
	TOTAL		\$37.50	

One spot

COMMENTS.

Residuals for voiceover use for "Strong Conservative - RFVISED"



	Date. 8/12/04
Bill To Martinez for Senate	Invoice Number: 04-084
1516 Hillcrest Street	Additional send to stations
Suite 200	REVISED
Orlando, FL 32803	"Strong Conservative"

Description		Amount
0. 1. 15 . 1. 1		
Standard Distribution:		
1 TV Spot Send to 22 Additional Stations		819.38
"Strong Conscrvative - REVISED"		
Additional use for voiceover talent		402 50
		•
	TOTAL	1,221.88

J4 12:22P

р.3



	Date: 8/12/04  Client: Martinez for Senate  Job: Additional send of "Strong			
Martinez for Senate				
1516 Hillicrest Street				
Suite 2(X)	Conse	rvative - REVISE	יס	
Orlando, FL 32803	Job#: 04-084			
Description	Units	Rato	Extende	
DIGITAL TRANSMISSION - RADIO				
STANDARD Overnight Radio Send (before 7pm PST)		\$20.00		
I.ATE NIGHT Radio Send (before 10pm EST)		\$45.00		
FOUR HOUR Radio Send		\$50.00		
ONT HOUR Radio Send		\$75.00		
Link to DG Systems		540.00		
DIGITAL TRANSMISSION - TV				
STANDARD Overnight TV Send (before 7pm EST)	27	525 00	\$550.00	
LATE NIGHT TV Send (before 10pm EST)		\$62,50		
FOUR HOUR TV Send		\$90.00		
ADD'L BETA TAPE OR 1" required by station	5	\$32.50	£162.50	
Second Tied Spot, STANDARD OVERNIGHT		\$10.00	•	
Link to DG Systems		<b>\$75.</b> 00		
DUPLICATION				
Audio Cassette	٠	\$10.00		
Dat Cassette		\$20.00		
MP3 File		\$115.00		
VHS tape		\$14.00		
Beta duh		\$45.00		
Electronic File		\$175.00		
Shipping				
Fed Ex/Overnight Service		\$30.00		
Mossenger		\$20.00	_	
	SUBT	OTAL	\$712.50	
Production Fee (15%)			\$106.98	
	TOT	FAL	5819.38	
<b>A A</b>				

Spot already in New York, no Link to DG Systems Spot went via satellite from New York (no tax charged)

Spot went to 22 additional stations, 5 of which was offline and required betaSP tape.

04 12:23p

p.4

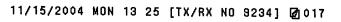


	Date: 8/12/04 Client: Martinoz for Sonate Job One TV Spot "Strong Conservative		
: Martinez for Senate			
1516 Hillcrest Street			
Suite 200		VISED	
Orlando, FL 32803	JOB# 04-084		
Description	Units	Rate (hr)	Extended
Off-Line			
Rough Cuts w/Editor (per hour)		225 00	
Conform			
On-Line Fdut or Smoke		325 00	
Graphics		250.00	
Audio			
Mix at Audio House		550.00	
Dat for VO		30 00	
Recording Session for v/o		200 00	
ISI)N Line		300 00	
Receiving ISDN		150.00	
Phone Patch		15 00	
Transfering m-files		150.00	
Voice Over Talent (w/P&W)		550 00	
Residuals for Voice Over	7.0	50 00	350.00
Music			
Music Use		250.00	
Special EFX		150.00	
Music scarch		100.00	
Original Music Score	1,500.00		
Mîsc			
Petty Cash		100.00	
Messengers		20 00	
Accounting		100 00	
Special Insurance		350.00	
S Pootage Research		100.00	
Stock Factage		1,200,00	
Delivery			
Masters		50,00	
Compression to Electronic Fales		100.00	
Fed Fx/Shipping		30.00	
Production Fee (15%)			\$750.0 52.5
	TOTAL		\$402,5
			Ţ

COMMENT 5:

One spot

Residuals for voiceover use for "Strong Conservative - RFVISED"





	Date: 8/20/04
Bill To: Martinez for Senate	Invoice Number: 04-096
1516 Hillcrest Street	Additional send to stations
Suite 200	of
Orlando, FL 32803	"Strong Conservative" - R

Description		Amount
Standard Distribution:		
1 TV Spot additional send to 16 stations		646.88
"Strong Conservative" - Revised		
Additional use for voiceover talent		172.50
	TOTAL	819.38



Date: 8/20/04
Client: Martinez for Senate
Job: One TV Spot "Strong

1316 Mikrest Sueet	Jou. One IV spor suong		ms.
Suite 200	Conservative" - Revised		evised
Orlando, FL 32803	JOB#: 04-096		
Description	Units	Rate (hr)	Extended
Off-Line			
Rough Cuts w/Editor (per hour)		225.00	
Conform			
On-Line Edit or Smoke		325.00	
Graphics		250.00	
Audio			
Mix at Audio House		550.00	
Dat for VO		30.00	
Recording Session for v/o		200.00	
ISDN Line		300.00	
Receiving ISDN		150.00	
Phone Patch		15.00	
Transfering e-files		150.00	
Voice Over Talent (w/P&W)		550.00	
Residuals for Voice Over	3.0	50.00	150.0
Music			
Music Use		250.00	
Special EFX		150.00	
Music search		100.00	
Original Music Score		1,500.00	
Misc			
Petty Cash		100.00	
Messengers		20.00	
Accounting		100.00	
Special Insurance		350.00	
S. Footage Research		100.00	
Stock Footage		1,200.00	
Delivery			
Masters		50.00	
Compression to Electronic Files		100.00	
Fed Ex/Shipping		30.00	
Production Fee (15%)			\$150.00 22.50
	TOTAL		\$172.5
00) 0 mm			

## COMMENTS:

To: Martinez for Senate

1516 Hillcrest Street

## One spot

Residuals for voiceover use for "Strong Conservative" - Revised



	Date: 8/20/04  Client: Martinez for Senate  Job: Addtl send to stations of  "Strong Conservative" - Revised			
Martinez for Senate				
1516 Hillcrest Street				
Suite 200				
Orlando, FL 32803	Jab#: 04-096			
Description	Units	Rate	Extende	
DIGITAL TRANSMISSION - RADIO				
STANDARD Overnight Radio Send (before 7pm EST)		\$20.00		
LATE NIGHT Radio Send (before 10pm EST)		\$45.00		
FOUR HOUR Radio Send		\$50.00		
ONE HOUR Radio Send		\$75 00		
Link to DG Systems		\$40.00		
DIGITAL TRANSMISSION - TV				
STANDARD Overnight TV Send (before 7pm EST)	16	\$25.00	\$400.0	
LATE NIGHT TV Send (before 10pm EST)		\$62.50		
FOUR HOUR TV Send		\$90.00		
ADD'L BETA TAPE OR 1" required by station	5	\$32.50	\$162.5	
Second Tied Spot, STANDARD OVERNIGHT		\$10.00		
Link to DG Systems		\$75.00		
DUPLICATION				
Audio Cassette		\$10.00		
Dat Cassette		\$20.00		
MP3 File		\$115.00		
VHS tape		\$14.00		
Beta dub		\$45.00		
Electronic File		<b>\$175.00</b>		
SHIPPING				
Fed Ex/Overnight Service		\$30.00		
Messenger		\$20.00		
	SUBTOTA	AL.	\$562.5	
Production Fee (15%)			\$84.3	
	TOTAL	Ĺ	\$646.88	
0 . 1 . 1 . 1 . 1 . 1 . 1 . 1 . 1 . 1 .				

Spot already in New York, no Link to DG Systems

Spot went via satellite from New York (no tax charged)

Spot went to 16 additional stations, 5 of which were offline and required betaSP tape.